

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Eastern Division**

PHILIPS LIGHTING NORTH AMERICA
CORPORATION and PHILIPS LIGHTING
HOLDING B.V.

Plaintiffs,
v.

HOWARD INDUSTRIES, INC. d/b/a
HOWARD LIGHTING

Defendant.

C.A. No. 2:18-cv-12-KS-MTP

**DEFENDANT HOWARD INDUSTRIES, INC. D/B/A HOWARD LIGHTING'S MOTION
FOR JUDGMENT ON THE PLEADINGS PURSUANT TO FED. R. CIV. P. 12(c)**

COMES NOW, the Defendant, Howard Industries, Inc. d/b/a Howard Lighting (“Howard”) in the above styled and numbered cause of action and submits this, Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(c), and would show unto this Honorable Court that Plaintiffs Philips Lighting North America Corporation and Philips Lighting Holding B.V.’s (“Philips Lighting”) Complaint fails to state a claim of infringement of U.S. Patent No. 6,250,774 (the “’774 patent”) upon which relief can be granted, and that judgment should be entered in favor of Howard on Count Five of the Complaint.

Philips Lighting fails to state a claim for injunctive relief from the alleged infringement of the ’774 patent because the ’774 patent has already expired. Philips Lighting is further precluded from seeking pre-suit damages from the alleged infringement of the ’774 patent for failure to give Howard actual or constructive notice of the alleged infringement before commencement of this action pursuant to 35 U.S.C. § 287(a). In addition, Philips Lighting is not entitled to post-suit damages because the ’774 patent expired before both the filing and the

service of the Complaint. Therefore, Philips Lighting may not recover any relief from Count Five of the Complaint as a matter of law.

For these reasons, more fully set forth in the accompanying Memorandum, Howard requests that Philips Lighting's claim of infringement of the '774 patent be dismissed with prejudice, and that judgment be entered in favor of Howard on Count Five of the Complaint.

RESPECTFULLY SUBMITTED, this 8th day of May, 2018.

/s/ Richard Lewis Yoder, Jr.

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CERTIFICATE OF SERVICE

I, Richard Lewis Yoder, Jr., of the law firm Gilchrist Sumrall Yoder Yoder & Leggett, PLLC, do hereby certify that a copy of the foregoing document has been provided via the Electronic Filing System to the following:

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Respectfully submitted,

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